

ORIGINAL SENATE
FILE NO. 0047

ENROLLED ACT NO. 22, SENATE

FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING
2004 BUDGET SESSION

AN ACT relating to elections; modifying procedures and other provisions relating to voting and registration; modifying provisions relating to public access to certain election, registration and voting records; implementing provisions relating to the federal Help America Vote Act; providing for access to certain records relating to voter identification; making conforming amendments; repealing obsolete provisions; providing an appropriation; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 22-3-118 is created to read:

22-3-118. Proof of identity.

(a) Unless a voter is challenged pursuant to W.S. 22-15-101 through 22-15-109, no identification shall be required when:

(i) Voting in person or by mail after having registered in person; or

(ii) Voting in person or by mail after having registered by mail and having previously voted in a Wyoming federal election.

(b) Prior to voting, when a voter has registered by mail and is voting in person in his first Wyoming federal election, he shall provide:

(i) A current, valid photo identification; or

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(ii) A copy of a current utility bill, bank statement, paycheck, government check or other government document which shows his name and address.

(c) When a voter has registered by mail and he is voting by mail in his first Wyoming federal election, he shall submit with his absentee ballot:

(i) A copy of a current, valid photo identification; or

(ii) A copy of a current utility bill, bank statement, government check, paycheck, or other government document which shows his name and address.

(d) Voters who are unable to provide the required proof under the applicable provisions of subsections (b) and (c) of this section shall be offered provisional ballots in accordance with W.S. 22-15-105 and permitted until the close of business on the day following the election to present documentation to the county clerk establishing their eligibility to vote in the precinct.

(e) The provisions of this section shall not apply to elections conducted pursuant to chapter 29 of this Election Code.

(f) As used in this section "Wyoming federal election" means a primary election, general election or a special election for federal office held in this state.

Section 2. W.S. 7-19-106(a) by creating a new paragraph (xi), 22-1-102(a)(ii), (xiv), (xli) and by creating a new paragraph (xlv), 22-2-113(d), 22-2-121(c) and (d), 22-3-102 by creating new subsections (d) and (e), 22-3-103(a) and (b), 22-3-104 by creating new subsections

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(d) through (h) and by amending and renumbering (d) as (j), 22-3-108(a) by creating new paragraphs (vi) and (vii), (b)(ii), (v), (vi), by creating new paragraphs (viii) and (ix) and (c), 22-3-117(b)(intro), (i) through (iii), (c) and (d), 22-5-205(a), 22-6-103, 22-6-126(a), 22-9-109, 22-11-103(a)(iii), 22-14-114, 22-15-105(b) and (d), 22-16-103(c)(i), (iii) and (iv), 22-24-112(b)(intro), 22-25-106(b)(i), 22-25-107(b), 31-7-120 by creating new subsections (c) and (d) and 35-1-426 by creating a new subsection (d) are amended to read:

7-19-106. Access to, and dissemination of, information.

(a) Criminal history record information shall be disseminated by criminal justice agencies in this state, whether directly or through any intermediary, only to:

(xi) The secretary of state, through the electronic voter registration system, for confirmation of the existence or nonexistence of felony conviction records of registered voters and of individuals seeking to register to vote. If the criminal history record information indicates that the subject's voting rights have been restored, that information shall also be provided. Notwithstanding subsection (c) of this section and W.S. 7-19-108, the subject's fingerprints shall not be required and no fee shall be charged. The necessary identifying information shall be provided to the division and the disclosures made in accordance with the terms agreed upon by the secretary of state and the attorney general.

22-1-102. Definitions.

(a) The definitions contained in this chapter apply to words and phrases used in this Election Code and govern the

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construction of those words and phrases unless they are specifically modified by the context in which they appear. As used in this Election Code:

(ii) "Ballot" means the cardboard, paper, or other material upon which a voter ~~records~~ marks his votes; ~~and includes ballot cards, paper ballots, and ballot labels;~~

(xiv) "Electronic voting system" is a system employing ~~a~~ an electronic voting device in conjunction with ballot labels, paper ballots or ballot cards, or other system of secret voting and automatic tabulating equipment for the recording, tabulating and counting of votes in an election;

(xli) "Provisional ballot" means a ballot provided to a voter whose right to register or to vote cannot be determined at the polls or verified at the election office, in order to allow the voter to ~~vote~~ cast a ballot at the polls which shall be counted only if the ballot is determined to be a valid ballot as provided in this Election Code;

(xlv) "Print" means to write in letters and reproduce whether on paper or other medium by mechanical, magnetic or electrical process.

22-2-113. Availability and form of computerized voter registration lists; use of copies; election record; purging.

(d) Unless otherwise specifically stated in this Election Code, all election records of the county clerk are public. The availability and dissemination of such records shall be in accordance with the Wyoming Public Records Act. Election records containing social security numbers, portions of social security numbers, driver's license

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numbers, state generated unique voter identification numbers, birth dates, telephone numbers and other personally identifiable information other than names, gender, addresses and party affiliations are not public records ~~if all other information contained in the record is otherwise available for public inspection and shall be kept confidential.~~ When necessary, members of the county or state canvassing boards may access confidential information for purposes of this code but shall maintain its confidentiality.

22-2-121. Chief election officer to prepare forms; rules; advice.

(c) The secretary of state shall have the authority to issue a directive to the county election officers necessary to ensure voter registration and elector participation when a military-uniformed services or emergency personnel elector could not otherwise vote.

(d) The secretary of state is authorized to adopt rules and regulations necessary to comply with the requirements of the Help America Vote Act of 2002, Public Law 107-252, including a state-based administrative complaint procedure, which shall not be subject to the Wyoming Administrative Procedure Act.

22-3-102. Qualifications; temporary registration.

(d) An absent uniformed services or an overseas citizen voter who is qualified to register by mail, to request an absentee ballot, and to vote in Wyoming is entitled to register by mail using the Federal Postcard Application for the purpose of voting in one (1) election or as many as the next two (2) federal election cycles, including the primary and general and special federal elections, but thereafter the voter's name shall be removed

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from the temporary registration list which shall be maintained as a segregated part of the voter registration list. The voter's name shall not appear on the permanent official registry list until the voter has registered as provided in W.S. 22-3-103 and 22-3-104.

(e) The secretary of state is authorized to provide for the verification of certain voter registration data in accordance with the following:

(i) The secretary of state and the director of the department of transportation shall enter into an agreement to match voter registration data with information maintained by the department regarding driver's licenses, in order to verify the information provided on applications for voter registration;

(ii) The secretary of state and the attorney general shall enter into an agreement to compare data in the voter registration system with information maintained by the division of criminal investigation regarding state felony convictions in order to deny voter registration to, and remove from voter registration lists, individuals who are not qualified electors;

(iii) The secretary of state and the director of the department of health shall enter into an agreement to match information in the voter registration system with death records in the office of vital records services within the department of health in order to remove names of deceased individuals from voter registration lists;

(iv) The secretary of state and the state board of parole shall enter into an agreement to match information in the voter registration system with records regarding

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.... (Signature in full of applicant)

Subscribed and affirmed or sworn to before me by
this day of, (year).

.... (Signature and title of registry agent
or person authorized to administer oaths)

(b) Persons in the ~~military~~uniformed services and overseas citizens, as specified in W.S. 22-3-117, may swear or affirm to the oath under the penalty of perjury. The oath does not require the signature of an oath-taking officer.

22-3-104. Proof of identity for registration; verification; signing oath; time for proving eligibility; registration locations.

(d) When an applicant registers to vote in person or by mail he shall:

(i) Provide acceptable identification as defined pursuant to W.S. 22-1-102(a)(xxxix);

(ii) Sign his full legal name to the registration oath before a registry agent;

(iii) Also provide the following as specified:

(A) The number from his current, valid, Wyoming driver's license; or

(B) If he has no current, valid Wyoming driver's license, he shall so state and shall provide the last four (4) digits of his social security number; or

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(C) If he has no current, valid Wyoming driver's license nor a social security number, he shall so state and the state shall assign him a unique identifying number which shall be included on the appropriate form developed pursuant to the Help America Vote Act.

(e) If an applicant is registering by mail, any person authorized to administer oaths shall be considered a registry agent for the purposes of this section.

(f) A person shall be registered to vote upon receipt by the county clerk of the completed and signed registration oath subscribed by the registry agent.

(g) On election day, applicants attempting to register who lack the proof required under this section shall be offered provisional ballots in accordance with W.S. 22-15-105 and permitted until the close of business on the day following the election to present documentation to the county clerk establishing their eligibility to register and to vote in the precinct.

(h) An applicant may register to vote in person:

(i) In his proper polling place at any election specified in W.S. 22-2-101(a)(i) through (viii); or

(ii) In the office of the county clerk or city clerk in the principal office building of the county or city in the presence of the registry agent.

~~(d)~~ (j) A county or city clerk may establish and maintain registration facilities in a public building owned or occupied by a political subdivision or governmental institution, agency or entity, after giving not less than

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two (2) days notice by publication in a newspaper of general circulation in the county and by posting such notice in such clerk's office and on the front door of such public building. The requirements of subsection ~~(a)~~ (h) of this section regarding the place of registration shall not apply to a person registering in accordance with this subsection.

22-3-108. Official registry list information.

(a) The official registry list shall contain at least the following information as to each registered elector:

(vi) Date of birth; and

(vii) The elector's Wyoming driver's license number, or if the elector has no Wyoming driver's license, one (1) of the following unique identifying numbers:

(A) The last four (4) digits of the elector's social security number, or if the elector also has no social security number;

(B) A unique identifying number generated by the state.

(b) The official registry list may contain the following information as to each registered elector:

(ii) County of residence;

(v) ~~Whether resident within~~ Name of municipal ~~corporate limits, and, if so, its name~~ corporation of residence, if any;

(vi) Number of school district number of residence; ~~and~~

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(viii) Gender; and

(ix) Telephone number, if any.

(c) The county clerk may maintain within the election records the social security numbers of registered electors for identification purposes, ~~which information shall not be a part of the public record.~~

22-3-117. Absentee registration generally; use of federal postcard.

(b) Under the Military-Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. 1973ff ~~(1986) or any subsequent federal laws of similar purpose~~ (2002) the following persons shall be allowed to simultaneously register and make application for an absentee ballot through the use of the Federal Postcard Application (FPCA), provided those persons are residents of this state or in the case of overseas citizens, they were last domiciled in Wyoming immediately prior to their departure from the United States and are not registered to vote in any other jurisdiction:

(i) Members of the ~~armed forces and merchant marine~~ uniformed services and their spouses and dependents residing with them;

(ii) Overseas citizens and their spouses and dependents residing with them; ~~and~~

(iii) Citizens temporarily residing outside of the United States, ~~and the District of Columbia,~~ and their spouses and dependents residing with them; and

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and I hereby request that my name be printed upon the official nonpartisan ballot at the next primary election as a candidate for the office indicated below as follows:

~~Justice of the peace.~~ (Name of office)

I am seeking (1) the regular term or (2) the unexpired term which terminates on the day of, (year).

Dated this day of, (year).

..... Signature

22-6-103. Official ballots.

(a) The official ballot shall contain the name of every candidate and every ballot proposition lawfully entitled to appear on the ballot. Only official ballots shall be cast at any election.

(b) The official absentee ballot shall be in the form prescribed by law for the official ballot or a reasonable printed reproduction of the prescribed form for electronic ballots.

22-6-126. Form of nonpartisan ballots.

(a) The official nonpartisan ballot for a general election shall be printed in substantially the following form:

OFFICIAL NONPARTISAN ELECTION BALLOT
GENERAL ELECTION

County of, Election District, Precinct
Date

(here print instructions)

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For Magistrate
(Here designate the particular term,
such as "regular four (4) year term",
or the "unexpired term of years").

Shall Magistrate John Doe be retained in office?
Yes No

Shall Magistrate Richard Roe be retained in office?
Yes No

~~For Justice of the Peace Vote for
(Here designate the particular one
term, such as "regular four
year term", or the "unexpired John Doe
term of years"). Richard Roe~~

Align all designations of office to correspond on the
ballot with the listing of names of candidates for the
proper office and term.

BALLOT PROPOSITIONS

Proposed Constitutional Amendment Letter A:
For Against
(Ballot Statement)
Proposed Initiative Proposition Number One: For Against
(Ballot Statement)

Proposed Referendum Proposition Number One: For Against
(Ballot Statement)

Other Ballot Propositions: For Against

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(Ballot Statement For Each Proposition)

22-9-109. Form of absentee ballot.

The absentee ballot shall be in the same form prescribed by law for the official ballot or a reasonable printed reproduction of the prescribed form for electronic ballots.

22-11-103. Capabilities required.

(a) Every electronic voting system adopted for use in Wyoming shall:

(iii) Permit voting either by paper ballot, ~~or~~ by ballot card or by other mechanical, magnetic or electrical means by which a vote may be recorded;

22-14-114. Counting of ballots.

For ballots designed to be counted by machine, each individual vote shall be determined by the voting equipment and shall not be determined subjectively by human tabulation except when the intent of the voter is unmistakable but the ballot was received in such damaged, soiled, or other condition that it is rejected by the machine. The secretary of state may promulgate rules establishing standards for counting such ballots. For ballots not designed to be counted by machine, only votes clearly marked, as provided by W.S. 22-14-104 and rules promulgated pursuant to this code, shall be tallied. For write-in votes, names which are misspelled or abbreviated or the use of nicknames of candidates shall be counted for the candidate if the vote is obvious to the board.

22-15-105. Challenged person may vote; generally.

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(b) A person challenged on any ground ~~except not being registered to vote~~ may vote by provisional ballot, if he subscribes this oath in writing before a judge of election:

"I do solemnly swear (or affirm) that I am the person I represent myself to be and that I am a qualified elector entitled to vote in this precinct at this election and that this is the only ballot I have or will vote in this election."

-
Signature of voter
-
Signature of judge
-
Precinct and District No.

(d) A challenged voter may present information ~~for consideration of the challenge and documentation of his eligibility to register at the election or to vote~~ to the county clerk until the close of business on the day following the election. Any information presented shall be considered by the canvassing board ~~with the in determining the voter's eligibility to register at the election or to vote and whether to open and count his~~ provisional ballot. The provisional ballot shall be counted only after the voter has, by presenting documentation required under this code to the county clerk, established he had previously registered and is a qualified elector or he was eligible to register at the election and is a qualified elector.

22-16-103. County canvass procedures.

(c) The county canvassing board shall:

(i) Meet as soon as all returns have been received and abstracted, but if any provisional ballots have been cast in the county, not before the time has passed for

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provisional voters to document their eligibility to register or to vote. The board shall meet at a time and place designated by the county clerk, but no later than the first Friday following the election;

(iii) Review and determine the ~~validity of provisional ballots~~ eligibility of provisional voters to register at the election if not previously registered and to vote and determine whether their provisional ballots may be opened and counted. The canvassing board shall meet in executive session when necessary to protect the confidentiality of ballots and of a voter's confidential personally identifiable information;

(iv) Count and tabulate the votes on the provisional ballots which were determined to ~~be valid~~ have been cast by qualified electors;

22-24-112. Petitions; circulation; contests.

(b) Any person may contest the qualifications of an individual designated as a circulator by filing a petition in the ~~justice of the peace court or~~ circuit court within the county where the circulator was soliciting signatures or in the district court within ten (10) days of the solicitation activity. The court shall hear and decide any such action within five (5) days from the date the petition is filed. Among the criteria the court may use in determining the qualifications of the circulator are the following:

22-25-106. Filing of campaign reports.

(b) Reports of itemized statements of receipt and statements of receipts and expenditures, and statements of termination shall be made with the appropriate filing

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officers specified under W.S. 22-25-107 and in accordance with the following:

(i) Except as otherwise provided in this section, any political action committee, candidate's campaign committee, or any political action committee formed under federal law or the law of another state that contributes to a Wyoming political action committee or to a candidate's campaign committee, and any other organization supporting or opposing any ballot proposition which expends any funds in any primary, general or special election shall file an itemized statement of receipts at least seven (7) days before the election current to any day from the eighth day up to the fourteenth day before the election and shall also file a statement of receipts and expenditures within ten (10) days after a primary, general or special election;

22-25-107. Where statements to be filed.

(b) Statements required to be filed at least seven (7) days before any primary, general or special election may be filed by facsimile transmission without the original signatures. Statements required to be filed after any primary, general or special election may be filed by facsimile transmission provided that an original with the required signatures is sent.

31-7-120. Records to be kept by division; exceptions.

(c) The division is authorized to provide personally identifiable information in its records to the secretary of state for the implementation of the voter registration system. The provision of information shall be for the purpose of verifying voter registration data. The division shall do so in accordance with terms agreed upon by the secretary and the director of the department.

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(d) The division is authorized to provide personally identifiable information in its records to the commissioner of social security for the purpose of having the applicable information matched with the information in the commissioner's records. The division shall do so in accordance with the Social Security Act, 42 U.S.C. 405(r), and the terms agreed upon by the commissioner of social security and the director of the department.

35-1-426. Disclosure of records.

(d) The department of health is authorized to provide the necessary information in death records to the secretary of state for the maintenance of the voter registration system by removing names of voters who are deceased from the voter registration list. This disclosure of death records shall be conducted in accordance with the terms agreed upon by the secretary of state and the director of the department of health.

Section 3. Two hundred fifty thousand dollars (\$250,000.00) is appropriated from the budget reserve account for the purpose of meeting a five percent (5%) state match requirement under the Help America Vote Act of 2002. This appropriation, when required by the Help America Vote Act, shall be placed into an account within the federal revenue fund together with matching federal payments. Interest earned on the account shall be credited to the account. All funds appropriated under this section shall be considered one-time funding and shall not be included within the office of the secretary of state's standard budget request for the 2005-2006 biennium. Notwithstanding W.S. 9-4-207(a), any unexpended funds appropriated under this section shall not revert to the budget reserve account at the end of the biennium.

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Section 4. W.S. 22-3-102(b), 22-3-104(a) and (b), 22-3-108(b)(i) and (iv), 22-5-203(a), 22-5-401(b)(iii) and 22-6-125(a)(v) are repealed.

Section 5. This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk